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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,030	05/07/2001	Michael Cristofalo	5216.00	2495

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EXAMINER

BUI, KIEU OANH T

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/851,030	Applicant(s) CRISTOFALO, MICHAEL	
	Examiner KIEU-OANH T. BUI	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 12-70 and 72-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-70, 72-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                   |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-79 have been considered but are moot in view of the new ground(s) of rejection.

### *Remarks*

2. Claims 9-11, and 71 were canceled. Pending claims are 1-8, 12-70, and 72-79 for reconsideration.

### *Claim Rejections - 35 USC 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

4. Claims 1-8, 12-70, and 72-79 are rejected under 35 U.S.C. 102(e) as being anticipated by Gershman et al. (U.S. Patent No. 6,401,085 B1).

Regarding claim 1, Gershman discloses "a method for providing targeted programming to a user outside of the user's home, the method comprising: receiving a user identification comprising an identifier corresponding to an account number used in a transaction; selecting a program based at least in part on the user identification; and providing the program for presentation to a user outside of the user's home" (Fig. 10B and col. 40/lines 28-54 for steps of providing targeted program to the user by using the user's profile, and as shown in Fig. 20, the

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user identification is required to access to the server system, as also illustrated in Fig. 17, and the requested content is delivered to the user remotely to a mobile device of the user, which is outside of the user's home, refer to col. 3/lines 14-28; and col. 44/lines 15-37 for an identifier of concerned, and see the examiner's arguments below).

As for claim 2, Gershman meets this limitation as the user profile is obtained associated with the user identification (Fig. 13, col. 41/line 51 to col. 42/line 3).

As for claims 3 and 4, Gershman discloses the program is selected based on the user profile which is obtained from a database (Figs. 10B, 17 & 18, and col. 43/line 45 to col. 44/line 13 for personal profile is used for personalized services to the user).

As for claim 5 and 16, Gershman meets these limitation as user profile and the program is obtained from at least memory or data storage (Figs. 17 & 18).

As for claim 6 and 7, Gershman further discloses a controller to perform one or more functions as disclosed above in receiving, obtaining the user profile and selecting, providing the program (Fig. 25 and col. 47/lines 42-51 for the intelligent agent acts as a controller to operform these tasks) and the user identification is associate with a single user (Fig. 20, each user has a personal password to sign in and access to the system network).

As for claim 8, Gershman further discloses the user identification is associated with a group including the user (col. 44/lines 14-37).

(Claims 9-11 were canceled).

As for claim 12 and 13, Gershman discloses the user has user interface device for receiving the user identification (as shown in Fig. 17 for a number of user interface devices, and

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the program is delivered to the presentation device (as shown in Fig. 1, item 138 and as illustrated in Fig. 1A with a portable and wireless PDA device).

As for claim 14, Gershman discloses the program is transmitted over at least one from the selected medium as of the list (Fig. 17 & 24 for the Internet).

As for claim 15, Gershman further discloses this limitation as the user requests for the content or program, the query is searched and matched in patterns, which is regarding as segments (refer to col. 16/line 10-65 & col. 77/claim 3 for the code segment in having query for the user's request).

As for claims 17 and 18, Gershman discloses "generating the program" and "the program is generated in real-time" (col. 1/line 49 to col. 2/line 38 & Fig. 26 for the wireless PDA device can access directly to a host computer for interactively request and obtain program or any other information instantly, and col. 10/lines 10-19 for real-time stock information can be obtained).

As for claim 19, Gershman discloses "the presentation device including a user identification component and an output component", i.e., user inputs for identification via user inputs or sensors on the wireless device, and an output component as the display screen (Fig. 26, and col. 60/line 50 to col. 61/line 21).

As for claim 20, Gershman discloses "wherein the user identification and the user profile is received from a user identification device" (the user can either uses a PDA for obtaining/accessing the user profile via a profile gateway server, Fig. 17 and col. 43/line 45 to col. 44/line 13 and/or he/she uses a smart card containing user profile information as the user identification device, refer to col. 64/lines 14-36).

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As for claim 21, Gershman meets wherein the user identification devices includes one or more devices selected from the group list (Fig. 17 & 26, and col. 43/line 45 to col. 44/line 37 for PDA, smart card, and col. 49/line 18-22 for voice recognition, and col. 4/lines 56-62 for a touch screen).

As for claims 22 and 23, Gershman shows wherein the program is provided to a user via at least one presentation device selected from the group list, and the device is a standalone unit (Fig. 17 for consumer access devices for individual use as a stand-alone unit).

As for claim 24, Gershman teaches to provide the presentation device including communication hardware and software to allow the user to connect a user device for receiving the programming (refer to Figs. 17-27 for flowcharts of hardware and software of the present invention of Gershman).

As for claims 25-27, Gershman teaches the program is provided to the user via a plurality of medium, either wireless or wired, analog or digital, internet, telephone, television, computer, PDA etc. and programming can be one form from the group list such as news, video, audio, entertainment, information etc. and from one of selected formats, refer to multimedia services (see Fig. 17, and col. 43/line 45 to col. 45/line 22 and col. 60/line 50 to col. 65/line 29 for a plurality of multimedia services).

(Claim 71 was canceled).

Regarding claims 28-70, and 72-79, these claims with same limitations are rejected for the reasons given in the scope of claims 1-8 and 12-27 as disclosed in details above (to avoid unnecessary repetitions), not limited to the cited paragraphs from the examiner but also to the entire disclosure of Gershman et al.

***Response to Arguments***

5. Applicant's arguments filed have been fully considered but they are not persuasive.

Applicant amends and states the user identification “comprising an identifier corresponding to an account number used in a transaction” and to avoid the use of “user profile”; however, as noted in page 6, lines 15-27, it simply refer to the billing method by using a credit card or an ATM card with the number captured and used in the transaction. Gershman teaches the same technique as the user can maintain and control his/her own user profile for billing purposes (refer to col. 38/line 63 to col. 39/line 12); and as illustrated in Fig. 17 and column 44/lines 14-37, the user can use a smart card that uniquely identifying the owner/purchaser to pay for the hotel service using a digital certificate as an identifier corresponding to an account number (of the smart card).

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. **Any response to this action should be mailed to:**  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to PTO New Central Fax number:**  
(571) 273-8300, (for Technology Center 2600 only)

*Hand deliveries must be made to Customer Service Window,  
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (571) 272-7291. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM, with alternate Fridays off.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kieu-Oanh Bui  
Primary Examiner  
Art Unit 2611